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Memorandum

To: Scott Hollabaugh, IRS Criminal Division
From: Brent Elswick, on behalf of Receiver, R.J. Zayed
Date: June 5, 2013
Re: James D. Pieron, JDFX, and Komplique

Over 700 investors were swindled out of \$158 million in Minnesota's second largest fraud—a massive Ponzi scheme touting the highly leveraged arbitrage of foreign currency pairs.¹ To-date, six persons involved with the fraud have either pleaded guilty or been convicted of federal charges ranging from wire fraud to money laundering to making a materially false statement to federal agents.² James Dayton Pieron, Jr., has yet to be indicted but was involved in the heart of the scheme.

This memo provides a summary of the facts concerning Mr. Pieron's role in the fraud. The facts set forth herein are not exhaustive. The Receiver has received limited discovery from Pieron, including a filtered production of documents.³ The Receiver has not deposed Pieron, although an attorney for the Receiver⁴ and the SEC have interviewed Pieron on separate occasions in 2009. Simply put, the record is incomplete. But the record that has been developed to-date is replete with evidence showing Pieron not only was on notice of

¹ Claims filed by 724 victims have been recognized by the Receiver. *Order Entering Second Amended Final Claims List*, No. 09-cv-3333, Doc. 952 (D. Minn. Mar. 23, 2012).

² *Amended: Judgment in a Criminal Case*, No. 10-cr-75, Doc. 28 (D. Minn. Apr. 15, 2011) ("Trevor Gilson Cook"); *Judgment in a Criminal Case*, No. 11-cr-112, Doc. 60 (D. Minn. Nov. 16, 2011) ("John Jason Greco"); *Information*, No. 11-c-192, Doc. 1 (D. Minn. June 13, 2011) ("Christopher Pettengill"); *Jury Verdict*, No. 11-cr-228, Doc. 302 (D. Minn. June 12, 2012) ("Jason Bo-Alan Beckman", "Gerald Joseph Durand", and "Patrick Joseph Kiley").

³ Pieron is represented by John M. Fedders, Esquire, 1914 Sunderland Place, N.W., Washington, D.C., 200036-1608, telephone: 202-659-2424, facsimile: 202-659-4959, email: jfedders@fedderslaw.com, website: www.fedderslaw.com. Mr. Fedders also offices in Idaho: P.O. Box 400, Tetonia, Idaho, 83452, telephone: 208-456-2050. From 1981 to 1985, Mr. Fedders was the Director of the Division of Enforcement of the U.S. Securities and Exchange Commission.

⁴ Receiver attorney Russell J. Rigby interviewed Pieron at his counsel's office on or about December 16, 2009. A summary of that interview will be provided under separate cover.

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indicia of fraud, insolvency, and other red flags, but that he very likely had actual knowledge of the fraud and provided substantial assistance to it.

Summary of the Fraud

Mr. Pieron was intimately involved with this Ponzi scheme, which lured investors into a supposed Currency Trading program promising a 10-12% per annum, guaranteed return. Trevor Cook was at the helm of the fraud although various others, including Patrick Kiley, Jason Bo-Alan Beckman, Gerald Durand, and Christopher Pettengill, had leadership roles as well. A number of civil and criminal lawsuits have been filed in the United States District Court for the District of Minnesota, and others, stemming from the scheme.⁵

In November 2009, the Securities and Exchange Commission ("SEC") and Commodity Futures Trading Commission ("CFTC") brought suit against Cook, Kiley, and numerous entities involved in the fraud.⁶ The Court appointed R.J. Zayed as the Receiver over the fraudulent entities and over the estates of Cook and Kiley.⁷ In March 2011, the SEC filed suit against Mr. Beckman.⁸ Mr. Zayed has been appointed as the Receiver over Beckman's company and estate, as well.⁹

In April 2010, Cook pleaded guilty for his role in the Ponzi scheme.¹⁰ He is now serving a 25-year sentence in federal prison.¹¹ On June 21, 2011, Pettengill pleaded guilty for

⁵ Aside from the Receivership cases [which can be found at Civ. Nos. 09-cv-3333, 09-cv-3332, and 11-cv-574 (D. Minn.)], the criminal cases [found at 11-cr-112, 11-cr-192, and 11-cr-228 (D. Minn.)], there are also myriad cases filed both before and during the appointment of the Receiver which have either been stayed, enjoined, adjudicated, dismissed, or remain pending. See, e.g., *Phillips v. Cook, et al.*, No. 09-cv-1732 (D. Minn. 2009); *Grad v. Associated Bank, N.A.*, 09-cv-2949 (Wis. Cir. Ct. 2009); *Steinberg v. Entrust*, 10-cv-332 (N.D. Ill. 2010); *Zayed v. Buysse, et al.*, 11-cv-1042 (D. Minn.); *Zayed v. Arch Ins. Co.*, No. 11-cv-1319 (D. Minn. 2011); *Hemenway v. Millennium Trust Co.*, No. 11-cv-2889 (N.D. Ill. 2011); *Zayed v. Kabarec*, No. 11-cv-1104 (D. Minn. 2011); *Zayed v. Peregrine Financial Group*, No. 12-cv-269 (D. Minn. 2012).
⁶ The SEC Action is No. 09-cv-3333 (D. Minn.). The CFTC action is No. 09-cv-3332 (D. Minn.)
⁷ *Second Amended Order Appointing Receiver*, No. 09-cv-3333, Doc. 68 (D. Minn. Dec. 11, 2009); *Order Continuing Appointment of the Temporary Receiver*, No. 09-cv-3332, Doc. 96 (D. Minn. Dec. 11, 2009).

⁸ The SEC action against Beckman is No. 11-cv-574, Doc. 9 (D. Minn.).

⁹ *Order Appointing Receiver*, No. 11-cv-574, Doc. 10 (D. Minn. Mar. 8, 2011).

¹⁰ See *USA v. Cook*, No. 10-cr-075 (D. Minn.).

¹¹ Mr. Cook's current residence is the Greenville, Illinois federal prison: Register no. 15048-041, FCI Greenville, PO Box 5000, 100 U.S. Highway 40, Greenville, IL 62246.

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his role in the fraud. He has been sentenced to 7.5 years in prison.¹² In July 2011, Beckman, Kiley and Durand were criminally charged.¹³ On Tuesday, June 12, 2012, after a six week trial and less than two days of jury deliberation, the three were found guilty on all charges (at least 15 charges a piece).¹⁴ Beckman was sentenced to 30 years and Durand to 20 years. Kiley's sentencing was delayed but is expected to occur this year.¹⁵

The Currency Program at the heart of this Ponzi scheme guaranteed 10-12% annual returns with no risk to principal. It was promoted as a high-frequency trading methodology. According to Cook and his co-conspirators, they were able to exploit minute discrepancies and fluctuations in exchange rates for major market currencies in under a millisecond; the near simultaneous buy/sell transactions allegedly netted a tiny profit on a large number of trades, with the sophisticated technology ensuring that the principal was never exposed to any risk of loss.¹⁶ Later, the Currency Program was also said to exploit banks complying with Shariah law to handle the short side of the transaction, essentially removing interest charges on the short position.

More specifically, the investors were often told that the strategy was:

linked to fixed swap arbitrage utilizing the highest spread between the G5 currency pairs. Currency fluctuation risk is directly hedged through a 'no swap' Shariah compliant bank or liquidity provider. Two accounts are set up for the client and offsetting positions are simultaneously executed. The first account holds a long position . . . The second account (with positions held at a Shariah-compliant bank) is a short position equal to the first account. This account hedges or offsets the currency fluctuation risk.¹⁷

Investors were told that their money would be deposited into a separate, individually segregated account. Investors were also promised instant and daily liquidity, 24/7 account

¹² See *USA v. Pettengill*, No. 11-cr-192 (D. Minn.).

¹³ See *USA v. Beckman, et al.*, No. 11-cr-228, Doc. 17 (D. Minn.) (Indictment); *USA v. Beckman, et al.*, No. 11-cr-228, Doc. 134 (Nov. 22, 2011) (Superseding Indictment).

¹⁴ *Verdict Forms*, No. 11-cr-228, Docs. 303, 305, 307 (D. Minn. June. 12, 2012).

¹⁵ See *USA v. Beckman et al.*, No. 11-cr-228 (D. Minn.). The Court ordered Kiley to undergo physical and psychological evaluation before he is sentenced.

¹⁶ This superior "technology", at the heart of the scheme pitch, was derived and supplied by James Pieron.

¹⁷ Information in this paragraph is culled directly from the scheme's "Global Enhanced Return Strategy" brochure, likely created fall 2008 (on file with author).

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reporting, and yields of at least 10.5%.¹⁸ Cook and his colleagues added to the allure of their program by falsely associating themselves with legitimate institutions and in some cases, borrowing their names. Entities involved in the fraud included various offshoots of “UBS,” though there was no connection to the Union Bank of Switzerland: “Universal Brokerage Services Diversified” was the official title Cook and his cohorts used, but referred to as UBS diversified.¹⁹ In reality, investor funds were comingled in various domestic bank accounts, some corporate and some personal. The funds were used to make lulling payments to earlier investors, casino and other land deals, purported ownership interests in other ventures, acquisition of the Van Dusen mansion, gambling and other personal expenses, and a variety of risky trading ventures.²⁰

Beginning in approximately July of 2008, Cook and the others began representing to new investors that their funds would be invested, through individually segregated accounts, in a foreign currency trading venture named Crown Forex, S.A., located in Basel, Switzerland.²¹ Despite taking in \$79 million that was to be invested in the Swiss Crown entity, Cook actually only transferred approximately \$23 million to Crown Forex S.A.²² As an example of the fraud, investors were often told to make their checks out to Crown Forex, but instead of the money going to Crown Forex, S.A., it was deposited into Cook’s own Associated Bank account in the name of Crown Forex, LLC, a non-existent entity.²³ Cook, Kiley, Durand, Pettengill, Beckman, and even Pieron, knew Crown Forex SA was “illiquid”, at best, in early 2008—yet they propped the company up and funneled in additional millions of investor dollars anyway.

Many of the investors were senior citizens and used retirement assets from IRA accounts to invest in the Currency Program.²⁴ Other investors were friends, family,

¹⁸ Hlavacek Dec. ¶ 33.

¹⁹ See *Order Continuing Appointment of the Temporary Receiver*, No. 09-cv-3332, Doc. 96 (D. Minn. Dec. 11, 2009) for a detailed list of the entities operated by the criminals.

²⁰ Hlavacek Dec. ¶¶ 38-41.

²¹ See Hlavacek Dec. ¶¶ 34-35.

²² Hlavacek Dec. ¶ 35.

²³ Hlavacek Dec. ¶ 22.

²⁴ Hlavacek Dec. ¶ 38.

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colleagues, and constituents of scheme operatives.²⁵ Investors came from nearly every state,²⁶ Canada, and one as far away as Sweden. Kiley brought investors into the scheme through a radio show broadcast on short wave and AM stations to a largely conservative audience. His show was titled "Follow the Money" and often began with the refrain, "Hello truth seekers", and would continue on to discuss current problems with the equities market and finish the listener off with the opportunity to invest in his safe Currency Program.²⁷ Individuals who called about the program were told lies, such as the companies' having \$10 billion assets under management, an interest in a Swiss bank, offices in Zurich, London, Lichtenstein, and Dubai, and that their worst ever year in the program (2003) still yielded 11.22%.²⁸

In total, the scheme collected approximately \$190 million from nearly 1,000 investors and used only a fraction of that to trade in foreign currencies.²⁹ Although \$51.2 million in lulling payments were made to investors prior to the SEC investigation, with money from subsequent investments (the classic hallmark of a Ponzi scheme), the remainder of investor funds were comingled in various domestic bank accounts and used to fund the ventures noted above. By the time the Receiver was appointed in November 2009,³⁰ only \$1,843,892 remained in the bank accounts of the Receiver Estates.³¹ Although some assets have been recovered and liquidated, the vast majority of the funds that were stolen remain at large with limited hope of recovery.

²⁵ See, e.g., *Petition for Return of Receivership Assets from Investor Respondents*, No. 09-cv-3333, Doc. 384, ¶ 31 (D. Minn. July 23, 2010) (describing the large investments and preferential treatment of clients associated with Trevor Cook's father-in-law); *Redacted Order*, No. 09-cv-3333, Doc. 515 (D. Minn. Sept. 28, 2010) (relating to Gina Berg f/k/a Gina Cook investment in Currency Program).

²⁶ The Receiver has recognized claim amounts from investors 43 of the 50 United States of America.

²⁷ See <http://www.youtube.com/watch?v=Q593C3UKi6o> (last visited July 8, 2012). Cook's pitch was also available online. See <http://www.youtube.com/watch?v=9zOMuxsaNcc&feature=fvsr> (last visited July 8, 2012).

²⁸ See Kiley Call Script (on file with author).

²⁹ Hlavacek Dec. ¶ 38.

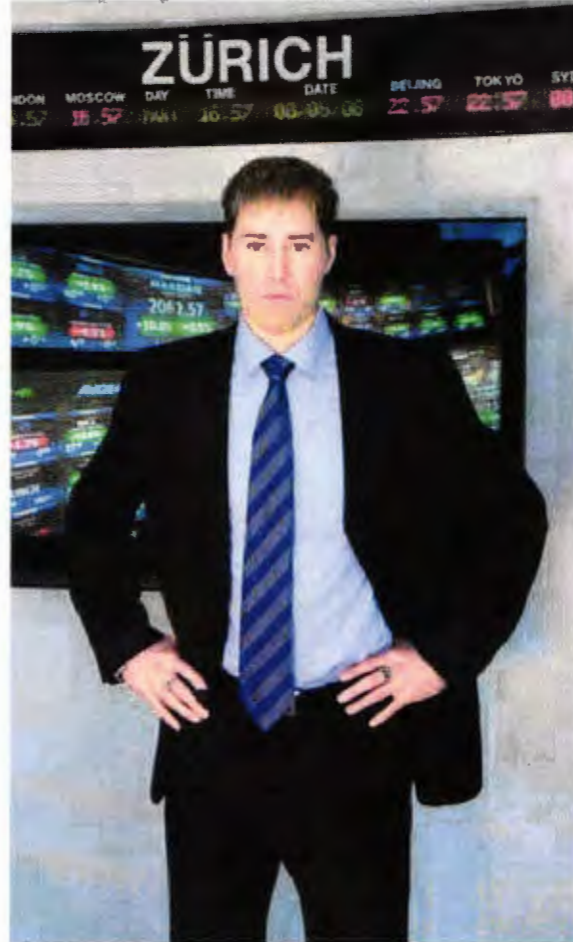
³⁰ March 2011 for Jason Bo-Alan Beckman. *Order Appointing Receiver*, No. 11-cv-574, Doc. 10 (D. Minn. Mar. 8, 2011).

³¹ See *Third Status Report of Receiver*, No. 09-cv-3332, Doc. 294, at 8 (D. Minn. May 5, 2010).

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James Dayton Pieron, Jr.

James Dayton Pieron, Jr., was born on October 1, 1969 in Michigan to Sandra Werwega and James Pieron, Sr. He has at least two (2) siblings, a brother and a sister,³² both of whom worked with him in some fashion while JDFX (Pieron's company) was operating in Switzerland. According to Pieron's resume, and other sources, Pieron graduated from Central Michigan University on August 15, 1998 with degrees in Computer Science, Philosophy, and a minor in Applied Mathematics.³³



The Pieron resume goes on to say he began "writing code at age 12, and at age 17 was quickly recruited by the United States Department of Defense to build a secure transmission of classified data[.]" After the completion of the assignment, Pieron writes, he was sent to Central Michigan University to complete his studies. Then, immediately after graduation, he was recruited by the F.B.I. for the Automated Fingerprint Identification System Project. Pieron's alleged work for the FBI of it made its way into Cook's lexicon as Cook touted JDFX's and Pieron's software and its importance in the Currency Program.³⁴ Pieron may also have military experience.³⁵

³² Rob Bescoe's wife (Laura Besco nee Pieron) and Jack Pieron. (See T. Cook Dep. 1196:1-14, Nov. 10, 2010).

³³ Pieron resume attached as Exhibit A. Pieron may not have received his Philosophy degree from CMU.

³⁴ (T. Cook Dep. 1184:18-25, 1185:1-7, Nov. 10, 2010) ("Well, he said he was one of the people that worked on a team that developed the computer code for fingerprint recognition software.").

³⁵ (T. Cook Dep. 1462:18-25, 1463:1-5, Nov. 30, 2010) ("He had said he was non-combat soldier of the year and had lunch or dinner with the president.")

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Shortly before graduating from college, Pieron's resume states he "started moving from Communications and Security into Financial Enterprise Systems. In 1998, he was the Technical Lead for CaTs (UBS, Trading System)." And in 2000, he claims to have returned to the United States to found Pieron Technologies Inc., which was an IT (Financial Systems) supplier of the Daimler Chrysler/Mercedes merger. The resume then says that in 2001, "Mr. Pieron returned to Zuerich where he designed and sold the 64-Bit Lifecycle project to UBS. After the completion of the UBS Project, Mr. Pieron started a partnership with Swissforex, to build a forex pooli [sic] system (Forex Fund) to trade foreign currencies. In 2003, he left Swissforex and joined JDFX Technologies AG, a Software Development company and IT Provider of Automated Trading Systems."

Pieron remained Chief Executive Officer of JDFX until relocating back in the Mount Pleasant, Michigan area in 2009, where he quickly filed Articles of Organization for JDFX Technologies, LLC in May of that year and then a Certificate of Dissolution seven months later on January 19, 2010. What seems clear is that Pieron is now operating a new entity, called Institutional Liquidity LLC, in much the same form and manner as JDFX—and quite likely using the very same technology that Trevor Cook purportedly utilized in the Ponzi scheme.

A review of emails by and between Pieron and the Ponzi schemers reflects several themes. Pieron, for one, is a man with little patience for those not immediately agreeable to his reasoning.³⁶ He surrounds himself with people either his age or younger, likely "yes"-persons.³⁷ He prides himself greatly in his keen intellect and thinks of himself somewhat as a computer / tech maven.

Throughout the Ponzi scheme, Pieron lived in Europe and, the correspondence suggests, he believes he is somewhat above and beyond the average American of similar background and experience.³⁸

³⁶ Attached as Exhibit B are select emails from seized and imaged computer hard drives.

³⁷ (See T. Cook Dep. 1196:1-3, Nov. 10, 2010).

³⁸ Email from James Pieron to various parties (June 27, 2008, 04:52 PM CST), attached hereto as Exhibit C.

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Pieron's Businesses*i. JDFX Companies*

JDFX and its offshoots appear to be entirely Pieron's own creation. The JDFX entities existed in four (4) parts:

1. JDFX Fund Ltd.
2. JDFX Holding AG
3. JDFX Technologies AG
4. JDFX Risk Management Services AG³⁹

According to Pieron's lawyer, all but JDFX Fund Ltd. have been liquidated. Counsel for Pieron wrote the Receiver stating, JDFX Fund Ltd. "simply has no activity, no license, no directors, no subscribers, etc."⁴⁰ Due diligence documents obtained by the Receiver⁴¹ suggests that JDFX Fund Ltd. was registered in the British Virgin Islands on May 4, 2005. According to Cook, Pieron ran a hedge fund, which appears to be this entity, with a limited number of investors — with perhaps Cook being the only external investor.⁴²

JDFX Risk Management Ltd., licensed to provide management services to mutual funds, was also incorporated on May 4, 2005 in the British Virgin Islands.⁴³ JDFX Technologies AG was registered in Switzerland, in contrast to the Caribbean with the other JDFX entities.⁴⁴ Based upon information and belief, the Technologies entity is the one that owns and controls Pieron's trading software. Finally, JDFX Holding AG also appears to have been registered in Switzerland on December 15, 2006.⁴⁵ JDFX Holding, according to the SEC,

³⁹ Hereafter identified collectively as "JDFX entities".

⁴⁰ See correspondence from Pieron attorney John M. Fedders to Receiver attorney Russel R. Rigby (June 24, 2011), ¶ 5 (on file with author).

⁴¹ The Receiver, pursuant to his Orders of Appointment, seized and imaged over 60 computer drives, 150 boxes of hard-copy files, and various other documents procured incident to his powers under the Receiver Orders and subpoena authority.

⁴² (T. Cook Dep. 1217:14-25, 1218:1-4, Nov. 10, 2010). Cook also talked briefly about a joint venture between Pieron's company and Saxo Bank. (T. Cook Dep. 1163:6-17, 1166-1168, Nov. 10, 2010). To what extent the venture existed and whether there was a dual financial relationship (or Receiver funds transferred between the two) remains unclear.

⁴³ Address: Folio Chambers, P.O. Box 800, Road Town, Tortola, British Virgin Islands.

⁴⁴ Documents on file with the Receiver appear to be in German and need translation.

⁴⁵ Documents which appear to be Swiss incorporating papers and need translation.

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was a British Virgin Islands company headquartered in Switzerland.⁴⁶ The Receiver has limited information on this entity; however, it was explained by Mr. Fedders as the shell entity that housed all the others.

ii. *Komplique*

Along with JDFX, and its offshoots, there is another company owned and operated by Pieron: Komplique, Inc., now a Michigan company dealing in luxury swimwear and resort wear.⁴⁷ In some manner, Pieron had begun the company in Switzerland and then transferred it back to Michigan upon his return to the United States. According to the Michigan Department of Licensing and Regulatory Affairs, Komplique remains an active company. Internet research suggests Pieron, as he may have done in Europe, put on a fashion show February 4, 2010 at the campus of Central Michigan University using the Komplique line and local, student models.⁴⁸ Cook believed he had an interest in this company, as well, and that Pieron may have funneled Receiver assets there.⁴⁹

iii. *Institutional Liquidity*

As Pieron wound down JDFX in Michigan, he wound up a new entity called Navitas Investments LLC on April 5, 2010. Three weeks later, on April 28, 2010, Amended and Restated Articles of Organization were executed and subsequently filed in Florida for an entity called I-Trade FX LLC,⁵⁰ changing the name of the “sole member” of the company from Jared F. Martinez (of Winter Park, Florida) to the “initial managing member” of Institutional Liquidity Holdings, LLC (“ILQ”) of Mount Pleasant, Michigan.⁵¹ On August 10, 2010, I Trade FX changed its name to Institutional Liquidity LLC; Navitas Investments LLC was listed as the principal office address.

According to Pieron’s lawyer, Pieron does not own any interest in ILQ but rather his

⁴⁶ Hlavacek Dec. ¶ 49.

⁴⁷ (T. Cook Dep. 1237:14-25, Nov. 10, 2010).

⁴⁸ Pieron is now living and working in the Mount Pleasant, Michigan area.

⁴⁹ (T. Cook Dep. 1233:13-25, 1236:5-7, Nov. 10, 2010).

⁵⁰ Articles of Organization were originally filed for this entity on July 20, 2005 in Florida, naming Jared and Isaac Martinez of Winter Park, Florida, the managers of the company.

⁵¹ There may be a gentleman with more background information on the relationship between the Martinez family and James Peiron. [REDACTED]

[REDACTED]

[REDACTED]

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interest is in Navitas Investments, LLC, which is the 100% owner of ILQ.⁵² A review of the Amended and Restated Operating Agreement⁵³ indicates that the limited liability company (Navitas) is a venture between James Pieron and Harrison Associated Limited, a British Virgin Islands limited liability company. Harrison Associates Limited executed the document through Harald McPike, as Director. Harald McPike is a mysterious gentleman who is rumored to be worth billions who operates a hedge fund in the Bahamas. McPike is also rumored to have bankrolled some of Pieron's prior pursuits.⁵⁴ Internet searches for McPike turn up little save for what may be a South Florida business address and a listing (along with his wife) as a Defendant in an Enron related preferential transfer complaint.⁵⁵

Pieron's Role in Fraud

In the opening statement of the Beckman, Kiley, and Durand trial, the Government referred to Pieron as an un-indicted co-conspirator in the fraud.⁵⁶ The facts surrounding Pieron's relationship with Trevor Cook and other key figures, the large part Pieron played in advancing the fraud through the promotion of his superior technology, the various business deals he was involved with, and the sheer quantity of the money he received, both for trading and as investments in his company, support this claim.⁵⁷

Several pieces had to fit together for Cook to raise as much money as he did. One significant piece was Pat Kiley and his radio program – preying on the financial insecurity and Christian affinity of hundreds of investors. Another piece was Chris Pettengill, whose marketing savvy and wealthy lineage gave credibility to the program. Yet another piece was Bo Beckman and his equities expertise. But no one may have been as important as James Pieron – bringing with him advanced trading technology that supposedly “eliminated all

⁵² See correspondence from John M. Fedders to Russel R. Rigby (June 24, 2011), ¶ 6.

⁵³ Produced to the Receiver by Pieron.

⁵⁴ (T. Cook Dep. 1173, Nov. 10, 2010). Some speculate that McPike may have been the recipient of investor funds funneled from Cook to Pieron and JDFX – funds which are now used to source ILQ, Navitas, and other Pieron endeavors.

⁵⁵ See <http://www.bankruptcylitigationblog.com/1B%20complaint%20-%20d%20amended.pdf> (last visited July 9, 2012). McPike's address is listed as: Haven View 5, Cloister Drive, Paradise Island, Nassau BP Bahamas.

⁵⁶ Opening Statement, April 20, 2012, No. 11-cr-228 (D. Minn.) Assistant U.S. Attorneys Tracy L. Perzel and David MacLaughlin tried the case; AUSA MacLaughlin gave the opening statement.

⁵⁷ (T. Cook Dep. 1185:8-19, Nov. 10, 2010).

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human error," along with his Swiss connection. Pieron's technology became a major selling point for the program at seminars, one-on-one conversations, and over the radio.

Pieron was also present when Cook transitioned the fraud to Crown Forex. This transition occurred as Cook moved trading from PFG Best, where he was losing money miserably, to "Crown" where he could better control the money and the relationship. The control is evidenced by Cook's purchase of an interest in Crown Forex SA, despite a terrible due diligence review conducted in large part by Pieron's own employees and with Pieron running the review.⁵⁸ This review, known as the "Tschopp Memo" because of its author, Dr. Felix Tschopp, was a key piece of evidence in showing that Kiley, Durand, Beckman and Pettengill knew about the insolvency of Crown Forex and that the Currency Program was a fraud. Thus, Pieron clearly had to have understood the substance of the program, in terms of source of funds and investment methodology, and thereby know explicitly that Cook was funneling investor funds to an insolvent—and illegitimate—foreign entity. From that point forward, if not long before, James Pieron was a co-conspirator.

i. Pieron Ponzi Scheme Relationship

The Pieron-Cook relationship began somewhere around late 2006, according to seized and imaged email communications, Cook testimony, and bank records. Cook has testified that Nolan Schiff (former director of managed forex at PFGBest⁵⁹ in Chicago) introduced him to Pieron.⁶⁰ They met because of their dual interest in PFGBest⁶¹ and forex markets.⁶² The first dollar transfer, \$500,000, to JDFX was on December 1, 2006.⁶³ According to Cook, he and some others had traveled to Switzerland in late 2006, met with some people involved with

⁵⁸ Email from Trevor Cook to Shadi Swais, Gerald Durand, and James Pieron (Feb. 14, 2008, 04:46:08 AM), attached hereto as Exhibit D.

⁵⁹ Formally, and historically, known as Peregrine Financial Group. Peregrine made national news when its founder, Chairman and CEO tried to commit suicide in the company parking lot and admitted that PFG was, in and of itself a fraud. The CFTC filed suit the next day. See *U.S. v. Wasendorf*, No. 12-mj-00131 (N.D. Iowa); *CFTC v. Peregrine Financial Group, Inc.*, No. 12-cv-5383 (N.D. Ill.); *In re Peregrine Financial Group, Inc.*, 12-27488 (Bankr. N.D. Ill.). Wasendorf has since pleaded guilty.

⁶⁰ (T. Cook Dep. 1172:5-6, Nov. 10, 2010) (T. Cook Dep. 1229:15-25, 1231:13-25, Nov. 10, 2010).

⁶¹ Pieron apparently wanted another buyer of his software.

⁶² (T. Cook Dep. 1171:13-25, 1229:3-25, Nov. 10, 2010)

⁶³ Hlavacek Dec. ¶ 49, Ex. 11 (attached hereto as Exhibit J).

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JDFX and, upon their return, JDFX immediately began giving them the hard sell.⁶⁴ Cook's travel records verify that he was in Switzerland for a period of time in November 2006.

At some point in January 2007, Pieron had visited Eric Erickson and other schemers in Minneapolis and was encouraged to join them on a trip to Costa Rica; another trip to Switzerland by the Cook entourage was foreshadowed.⁶⁵ Cook's travel records also verify the Costa Rica trip in early February 2006 – and another trip to Zurich in May 2007.⁶⁶

Pieron also traveled to Las Vegas, Nevada with Cook, Durand, Pettengill, Kyle Garman, and likely Pieron's brother or an unnamed friend (Pieron top-left in picture).



Top left: Pieron, Jerry Durand, undetermined
Lower left: Pettengill, Cook, Kyle Garman

From the very beginning, Pieron must have noticed he was dealing with irregular finance professionals. What he probably noticed more than anything was that they were very good at raising cash⁶⁷ – and had a lot of it to spend.⁶⁸ And spend on random things not generally associated with a currency arbitrage hedge fund.⁶⁹ But by early 2008, at the latest, Pieron knew – as those in leadership with Cook knew – that the currency arbitrage program

⁶⁴ (T. Cook Dep. 1229-1230, Nov. 10, 2010)

⁶⁵ Email exchange between Eric Erickson and James Pieron (Jan. 26, 2007, 09:56 AM) (on file with author). (See also T. Cook Dep. 349:21-23, Oct. 6, 2010).

⁶⁶ Email from Trevor Cook to Mike Mansfield, Gerald Durand, Chris Pettengill, and Mikkel Thorup (April 25, 2007) (on file with author).

⁶⁷ Email from James Pieron to Chris Pettengill (May 9, 2007, 03:17 PM) ("I'm very glad you're on the USBD team, they are already an amazing money raising force.") (attached as Exhibit E).

⁶⁸ Email from Trevor Cook to James Pieron (Aug. 2, 2008, 8:35 PM) ("We have the FX brokerage firm in Panama done. . and we will have our own bank in Panama in 6 months") (attached as Exhibit F).

⁶⁹ Like a forex brokerage firm and bank in Panama (which never happened), other property investments in Panama, and funds for purchasing Banque du Bois (more on the Banque, below).

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as they marketed it was not a legitimate going concern.⁷⁰ Pieron knew this because he was party to the due diligence memorandum prepared on the very entity they were to begin investing all investor proceeds with, Crown Forex SA.⁷¹ And prepared by a gentleman who not only worked with Pieron but was apparently on the Board of Directors of his various entities at the time— Dr. Felix Tschopp.⁷² Documents also suggest Pieron may have been the catalyst for the Tschopp due diligence memo.⁷³ Dr. Tschopp resigned from Pieron's company a few months after issuing his memo about Crown Forex.⁷⁴

Whatever the background for the Tschopp Memo, the document clearly summarizes that “the company is illiquid” and that a “proper valuation . . . would result in an over indebtedness requiring the board of directors to inform the court or, alternatively, present appropriate restructuring measures (injection of new capital).” Further, Tschopp found that management “does not have the company under control from a financial point of view.” Rather than turn tail and run, however, Cook and his cohorts doubled-down and provided “the injection of new capital” themselves in the form of \$4 million of investor money for an interest in Crown Forex SA.⁷⁵ After that, the valve was wide open and Cook transferred another \$13.6 million of investor funds to keep Crown afloat and to attempt his leveraged “arbitrage” of currency pairs— despite everyone knowing Crown was a sham.

But Pieron was not merely a casual observer to the Tschopp Memo and its dire analysis of the Ponzi scheme’s main investment vehicle. Pieron was also asked to lie to

⁷⁰ Email correspondence from James Pieron to Trevor Cook, Gerald Durand, and Chris Pettengill (Feb. 27, 2008, 10:00 AM) (“Tschopp Memo”) (attached as Exhibit G).

⁷¹ Of the \$79 million investor funds raised by representations their money would be invested with Crown Forex SA, only about \$23 million was actually transferred to Switzerland. Hlavacek Dec. ¶ 35. Over \$17 million was transferred to Crown Forex SA and never returned after the Tschopp Memo was issued. *Id.*, Ex. 10.

⁷² Email from James Pieron to Calum McKenzie, Director, Folio Corporate Services Limited, British Virgin Islands (July 2, 2008) (attached as Exhibit H).

⁷³ Email from James Pieron to Dr. Felix Tschopp, Trevor Cook, Jerry Durand, and Chris Pettengill (Feb. 25, 2008 1:02:21 AM) (on file with author).

⁷⁴ See Exhibit H.

⁷⁵ Pledge Agreement executed between Gerald Durand, Trevor Cook, and Ibrahim Ali Hasanein (Feb. 18, 2008) (on file with author). The actual wire transfers, however, suggest that a total of \$4.1 million was transferred for the Crown interest.

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others about the scheme.⁷⁶ Pieron, along with Oxford COO Tom Richardson, were charged with escorting an “important guest” around Switzerland and the Crown Forex SA complex, and talk about how great Crown was, that it was heavily regulated, and that client money was safe. This occurred, of course, nearly nine months after the Tschopp Memo confirmed Crown Forex SA was illiquid and not a legitimate going concern.

The Cook and Pieron relationship was interesting in other ways. A few months after the relationship began, Pieron purchased an Audi RS6 for Cook, had it specially customized with a NASCAR 6-speed racing transmission and a 608 horsepower V8 Bi-Turbo engine, and shipped to the United States. This car was ultimately seized and sold by the Receiver at public auction. Pieron also appears to have attended a Super Bowl party in Panama in 2009 organized by Cook and one of his gambling friends. Cook and Pieron also communicated with each other in strange ways—Cook routinely referring to him as his “BFAM” (brother from another mother). This occurred more and more often in the end, when the walls were caving in, as Cook was desperate for account information (and money) incident to the SEC investigation.



ii. *JDFX Transfers and Scheme Interest*

According to the work done by the SEC, bank records show that from December 1, 2006 through June 26, 2009, \$38.2 million was transferred to the JDFX entities from Cook Ponzi scheme bank accounts.⁷⁷ As mentioned previously, one of the JDFX entities was comprised of a subsidiary which purportedly had developed a high-speed computer platform for trading foreign currency and another entity which managed an investment fund called JDFX Fund.⁷⁸ According to Pieron, of all the money transferred to the JDFX entities, approximately \$15.3 million was for the purpose of purchasing shares amounting to a 35% interest in the JDFX entities from Pieron personally; \$500,000 was for repayment of a loan; and the

⁷⁶ Email from Trevor Cook to Shadi Swais, James Pieron, and Tom Richardson (Dec. 3, 2008, 07:03 PM) (attached as Exhibit I).

⁷⁷ Hlavacek Dec. ¶ 49, Ex. 11 (Exhibit J, herein).

⁷⁸ *Id.*

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remaining \$22.3 million was used by Cook for currency trading in the JDFX Fund accounts.⁷⁹ The JDFX entities returned \$13 million to the Ponzi scheme defendants. And all but \$166,892 of the remaining \$10.3 million was lost in currency trading by Cook.⁸⁰

Pieron acknowledges, through counsel, that “a substantial majority of JDFX Fund’s foreign currency trading business involved the transactions executed by Mr. Cook.”⁸¹ And that with all the negative publicity of the demise of Cook’s Ponzi scheme, and JDFX’s involvement with it, JDFX had no “reasonable prospect of continuing in business.”⁸²

Both Pieron and Cook are in agreement that millions of dollars were transferred to Pieron as consideration for the purchase of an ownership interest in something. Where they differ relates to the specific entity interest(s) purchased. Pieron, through his counsel, and bolstered by documents he produced, asserts that Cook transferred \$15,250,000 for a 35% equity interest in JDFX Holding AG.⁸³ Cook, however, through testimony asserts that the purchase was for 20% of everything Pieron owned—including Komplique—for \$10 million.⁸⁴ The 20% interest was increased later on when a separate purchase went bad.⁸⁵ The translation⁸⁶ of the JDFX Holding AG documents might hold the key to Cook’s true interest, to the extent the incorporating documents spell out what the entity holds. However, according to Pieron’s counsel, JDFX Holding AG is no longer in existence.

⁷⁹ *Id.* See also Correspondence from Pieron attorney John M. Fedders to Russel R. Rigby, Receiver attorney (June 24, 2011), ¶ 2.

⁸⁰ Hlavacek Dec. ¶ 49.

⁸¹ Email from John Fedders to Russell R. Rigby (Aug. 10, 2010, 02:12 PM) (on file with author).

⁸² *Id.*

⁸³ Correspondence from John M. Fedders to Russel R. Rigby (June 24, 2011), ¶ 2, Doc. 686 (on file with author). See also Hlavacek Dec. ¶ 49.

⁸⁴ (T. Cook Dep. 1205:4-7, 1209:18-24, Nov. 10, 2010) (T. Cook Dep. 1621-22, Dec. 1, 2010) (T. Cook Dep. 350:2-19, 357:2-7, Oct. 6, 2010). Cook’s veracity for truthfulness is questionable. He failed a lie detector test twice when questioned about the scheme and any hidden assets. See *Receiver’s Opposition to Trevor Cook’s Motion to Purge Contempt*, No. 09-cv-3333, Doc. 508, at 1-4 (D. Minn. Sep. 24, 2010) (discussing Trevor’s capacity to lie).

⁸⁵ (T. Cook Dep. 363:8-14, Oct. 6, 2010).

⁸⁶ The documents appear to be in German.

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iii. *Banque du Bois*

According to Cook, Pieron “basically just stole” \$5 million so he could buy a “bank for zero”—a bank in Switzerland, called Banque du Bois, which was located across the street from Pieron’s company.⁸⁷ But rather than get any interest in the bank whatsoever for his money, Cook ended up getting a larger interest in JDFX—as Pieron “papered” it.⁸⁸ Ultimately, Cook viewed it as an absolute con by Pieron and when he attempted to get the \$5 million back (because the bank was apparently never purchased), Pieron said it was gone.⁸⁹ The failed Banque du Bois purchase was engineered in late 2008. Interestingly, the Banque was to be purchased under title of another, distinct Pieron entity called Pieron Investments AG.⁹⁰ There is no indication that Pieron ever ended up with an interest in the bank, though it apparently continues to exist and is even expanding its operations.⁹¹

Pending NFA Matters

The National Futures Association (hereafter, “NFA”) reached out to the Receiver on March 25, 2011 about Pieron because of a pending registration involving Pieron’s new company, Institutional Liquidity (“ILQ”). The documents Pieron provided to the NFA show a number of bank accounts and the large quantity of funds at Pieron’s disposal. Pieron has, or is associated with, three (3) Fifth Third Bank accounts.

In mid-2012, Pieron’s ILQ entity faced an enforcement action by the NFA. According to the public NFA website case summary:⁹²

On June 6, 2012, NFA issued a Complaint charging ILQ with offsetting forex trades with unregulated counterparties; failing to report counterparties to NFA; failing to uphold high standards [sic] of commercial honor and just and equitable principles of trade; allowing an unregistered individual to act in a capacity requiring registration as an AP; and allowing an individual who was not approved as a forex AP by NFA to commence forex activities.

On August 28, 2012, pursuant to a settlement offer submitted by ILQ, the firm was ordered to pay a \$50,000 fine. In addition, the firm was ordered to adopt and execute written procedures within 60 days of the Decision and provide them to NFA.

⁸⁷ (T. Cook Dep. 357:6-14, 359:15-361:2, 362:6-22, Oct. 6, 2010.)

⁸⁸ (T. Cook Dep. 363:6-14, Oct. 6, 2010.)

⁸⁹ (T. Cook Dep. 364:1-5, 366-67, Oct. 6, 2010.)

⁹⁰ Offer Letter for Share Purchase of Banque du Bois AG (Nov. 25, 2008) (on file with author).

⁹¹ See www.banquedubois.com (last accessed Jan. 9, 2013).

⁹² See <http://www.nfa.futures.org/basicnet/> (last accessed June 3, 2013).

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Conclusion

Based on the foregoing, Pieron should be a target of federal criminal investigation. Pieron was actively involved in the scheme at a time where it faced its most illegitimate turn to Crown Forex SA and he did not hesitate to request and receive millions in investor funds from that point forward up and until the scheme collapsed under the weight of federal investigation. Furthermore, it is highly likely that Pieron's new Michigan venture, ILQ, was funded, at least in part, with money stolen from investors in the Cook Ponzi scheme.